

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 17970
[Redacted],	)	
	)	DECISION
Petitioners.	)	
	)	
_____	)	

On January 20, 2004, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable year 1998 in the total amount of \$2,459.

On March 22, 2004, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather chose to submit additional information. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that showed the taxpayers had income from Idaho sources in 1998. The Bureau researched the Tax Commission's records and found that the taxpayers did not file a 1998 Idaho individual income tax return. The Bureau sent a letter to the taxpayers asking them about their requirement to file. The taxpayers did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayers were required to file an Idaho income tax return for 1998. The Bureau prepared a return for the taxpayers and sent them a Notice of Deficiency Determination.

The taxpayers protested the Bureau's determination. They stated they were only residents of Idaho for four months in 1998. The taxpayers said the income figures the Bureau used were higher than their actual Idaho income. The taxpayers stated they would file a correct Idaho income tax return. The taxpayers failed to provide the return, so the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayers a letter giving them two alternatives for having the Notice of Deficiency Determination redetermined. The taxpayers responded that they did not want to attend a hearing but would provide additional documents or other material. The taxpayers asked if the Tax Commission would be sending an information request. The Tax Commission did ask the taxpayers to provide a copy of their W-2 wage statements and a completed part-year resident Idaho income tax return.

The taxpayers failed to provide the requested documents, so the Tax Commission reviewed the information available and prepared a part-year resident return for the taxpayers. The Tax Commission sent the taxpayers a copy of the part-year resident return and asked them again to provide a copy of their W-2 wage statements to further reduce their Idaho tax. The taxpayers did not respond. Therefore, the Tax Commission issued its decision based on the information available.

The taxpayers stated they lived in Idaho for only four months in 1998. The Tax Commission found information from the Department of Labor and the IRS that supported the taxpayers' statement. Therefore, the Tax Commission found the appropriate return for the taxpayers for 1998 was a part-year resident return. The Tax Commission also found [Redacted] that there was reason to believe the taxpayers had Idaho withholdings. However, it is the taxpayers who bear the burden of establishing that they have a credit against their tax. Higgins v. CIR, T.C. Memo 1984-330 (1984). If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and that taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). The taxpayers provided nothing to show they had state withholdings. Consequently, the Tax Commission has nothing it can credit against the taxpayers' 1998 Idaho income tax.

WHEREFORE, the Notice of Deficiency Determination dated January 20, 2004, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$511	\$128	\$215	\$854

DEMAND for immediate payment of the forgoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is included with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2005.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

### **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2005, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]  
[REDACTED]  
[REDACTED]

Receipt No.

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